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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 JEFFREY TALAMANTES,

12 Plaintiff,

13 vs.

14 MERCED COUNTY JAIL, et al.,

15 Defendants.
16

1:20-cv-01643-DAD-GSA-PC

**ORDER DENYING PLAINTIFF'S
REQUEST FOR RELEASE FROM
CUSTODY AND FOR INFORMATION
(ECF No. 11.)**

17 **I. BACKGROUND**

18 Jeffrey Talamantes ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
19 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint
20 commencing this action on November 18, 2020. (ECF No. 1.) The Complaint awaits the court's
21 requisite screening under 28 U.S.C. § 1915.

22 On June 3, 2021, Plaintiff filed a request to be released from custody, request for
23 information, and request for relief.

24 **II. RELEASE FROM CUSTODY**

25 Plaintiff requests to be released from custody. Such relief is not available in this § 1983
26 action. "[W]hen a state prisoner is challenging the very fact or duration of his physical
27 imprisonment, and the relief he seeks is a determination that he is entitled to immediate release
28 or a speedier release from that imprisonment, his sole federal remedy is a writ of habeas corpus."

1 Benn v. Duarte, No. 11CV01214-AJB JMA, 2012 WL 760459, at *5 (S.D. Cal. Mar. 7, 2012)
2 (quoting Preiser v. Rodriguez, 411 U.S. 475, 500 (1973)); Young v. Kenny, 907 F.2d 874 (9th
3 Cir. 1990), *cert. denied* 11 S.Ct. 1090 (1991). Therefore Plaintiff's request for relief from
4 custody shall be denied.

5 **III. REQUEST FOR INFORMATION**

6 Plaintiff requests the court to advise him how to obtain copies of written complaints
7 submitted to the Merced County Jail. Plaintiff is advised that discovery is not open in this case
8 and he is therefore precluded from making requests to defendants or third parties for discovery
9 documents until discovery has been opened by the court. When this case is ready for discovery
10 the court shall issue an order opening discovery for all of the parties in this case. The court's
11 discovery order will contain information about conducting discovery. It is not time for discovery
12 in this case.

13 Second, Plaintiff is reminded that that it is not the court's duty to act as Plaintiff's counsel
14 or paralegal in these matters. Martinez v. Court of Appeal of Cal., Fourth Appellate Dist., 528
15 U.S. 152, 162, 120 S.Ct. 684, 145 L.Ed.2d 597 (2000) ("[T]he trial judge is under no duty to
16 provide personal instruction on courtroom procedure or to perform any legal 'chores' for the
17 defendant that counsel would normally carry out"); Pliler v. Ford, 542 U.S. 225, 231, 124 S. Ct.
18 2441, 159 L. Ed. 2d 338 (2004) ("Requiring district courts to advise a *pro se* litigant in such a
19 manner would undermine district judges' role as impartial decisionmakers."). The court is not
20 available to act as Plaintiff's counsel nor answer questions about how Plaintiff should litigate his
21 case. However, all documents filed in this action shall be served upon all parties who have
22 appeared in this action, including Plaintiff. Plaintiff will, in due course, receive notice at his
23 address of record of rulings made in this case and deadlines established in this case, provided he
24 keeps the court informed of his current address.

25 Therefore, Plaintiff's request for information from the court shall be denied.

26 **IV. REQUEST FOR RELIEF**

27 Plaintiff notifies the court that he is in fear for his safety and freedom, that he has already
28 been retaliated against by Merced County officers who lost his paperwork and other items. To

1 the extent that Plaintiff requests the court to compel prison officials or Merced County officers
2 to act on his behalf or refrain from acting him, the court construes this request as a motion for
3 preliminary injunctive relief, which shall be addressed by separate order.

4 **V. CONCLUSION**

5 Based on the foregoing, **IT IS HEREBY ORDERED** that:

- 6 1. Plaintiff's request for release from custody is denied;
- 7 2. Plaintiff's request for information is denied; and
- 8 3. Plaintiff's motion for preliminary injunctive relief, filed on June 3, 2021, shall be
9 addressed by separate order.

10
11 **IT IS SO ORDERED.**

12 Dated: **June 7, 2021**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE